MOTION FILED
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No. 79-509

In the Supreme Court of the United States

OCTOBER TERM, 1979

EXXON CORPORATION,

Appellant,

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Appellee.

On Appeal From the Supreme Court of Wisconsin

MOTION FOR SPECIAL LEAVE TO FILE SUPPLEMENTAL BRIEF AND SUPPLEMENTAL BRIEF OF APPELLANT

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MOTION FOR SPECIAL LEAVE TO FILE SUPPLEMENTAL BRIEF

Pursuant to Rule 41(5) and (6) of the Rules of the United States Supreme Court, Exxon Corporation, Appellant, respectfully moves for special leave to file the accompanying supplemental brief in this case.

On March 19, 1980, after the filing of the Brief of Appellant, the Reply Brief of Appellant and oral argument before this Court (held on March 18, 1980), this Court handed

down its opinion in the case of *Mobil Oil Corporation* v. *Commissioner of Taxes of Vermont,* No. 78-1201, ... U.S. ..... (1980). That case concerns the taxation of income of a vertically integrated multistate petroleum company, like Appellant, by means of an apportionment formula. As such, the *Mobil* case is an intervening matter that Appellant was not able, heretofore, to comment upon for the benefit of this Court.

Appellant therefore respectfully requests this Court to grant its motion for special leave to file its supplemental brief thereby providing this Court with Appellant's observations regarding the *Mobil* decision.

Respectfully submitted,

.....

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SUPPLEMENTAL BRIEF OF APPELLANT

ARGUMENT

In supplementation of its previous briefs, Appellant submits this brief in support of its view that the decision of this Court in *Mobil Oil Corporation* v. *Commissioner of Taxes of Vermont,* ..... U.S. ..... (1980), 48 Law Week 4306, handed down on March 19, 1980, the day after oral argument in the above entitled case, is entirely consistent with Appellant's position in this case.

There are only two narrow similarities between the two cases. Factually, both Mobil and Appellant are *integrated* petroleum companies (not to be confused with the *unitary* concept, for which see below), conducting only marketing functions in the taxing states. Legally, both Mobil and Appellant challenge the right of a taxing state (but on utterly different grounds) to include certain income in the income base to which an apportionment formula may be applied in the determination of the tax due the state. Beyond this, there are wide and significant divergences between the two cases which are crucial to this Court's consideration of this case. These divergences can be enumerated in summary form.

1. It should be noted at the outset that the two cases arose under two dramatically different taxing statutes. In the *Mobil* case, the Vermont statute defines the taxable income base as total taxable federal income, to which an apportionment formula can be applied "so as to allocate to the state *a fair and equitable portion* of that income" (Emphasis supplied; 48 LW 4307, nn 3 and 4). There is no indication from this Court's decision that Mobil ever challenged the taxing concept embodied in the Vermont statute. In contrast, the Wisconsin statute in this case provides for the specific allocation of situs income to the situs state with apportionment then being employed only to determine income *derived* from business conducted and property located *within* Wisconsin. The Wisconsin Supreme Court circumvented these statutory provisions by summarily holding Appellant to be unitary so that, *per se,* the apportionment formula could be applied to substantially all of Appellant's income, including situs income earned in other states. One of the reasons ascribed by that court for this conclusion was that Wisconsin was entitled to tax its *fair share* of Appellant's total income, regardless

of where derived, to which Appellant has lodged a vigorous constitutional challenge (App. Br. pp. 17-44).

2. In *Mobil,* this Court makes the threshhold observation (48 LW 4308) that "appellant has disclaimed any dispute with the accuracy or fairness of Vermont's apportionment formula". In sharp contrast, Appellant in this case, while conceding as an abstract proposition that an *appropriate* apportionment formula when *appropriately* applied is constitutional, has vigorously contested the judicial deviations from the statutory formula provisions so as to permit the application of the Wisconsin formula to almost all of Appellant's income, including production situs income derived from operations outside Wisconsin (App. Br. pp. 30-49).

3. As a further important threshhold observation (48 LW 4308), this Court noted that in *Mobil* the appellant sought, *without more,* to exclude dividends from the income base just because they were dividends, thus leaving that assertion as the sole, narrow, naked issue to be determined. As expressed by this Court, its only inquiry in *Mobil* was:

> ". . . confined to the question whether there is something about the character of income earned from investments in affiliates and subsidiaries operating abroad that precludes, as a constitutional matter, state taxation of that income by the apportionment method." (48 LW 4308)

Here, no dividend issue is in any way involved: rather, Appellant by virtue of the unchallenged integrity of its *separate functional accounting* and transfer prices has isolated and identified Exploration and Production Department income derived solely in states other than Wisconsin from the development of natural resources, crude oil and gas in this case. Stated another way, Appellant here is not claim-

ing exclusion of production income simply because it carried the situs "label" (like the "dividend" label in *Mobil*), but because it has successfully and without challenge geographically identified and accurately measured that situs income as being non-Wisconsin income (App. Br. pp. 9-12).

4. As a third threshhold observation in *Mobil,* this Court concluded that, although Mobil did not concede it was unitary, no evidence had been offered by Mobil to counter the "legal conclusion" that it was unitary and that all the subsidiaries from which the dividends derived contributed to Mobil's enterprise (48 LW 4308). Here, again, there is no parallel between *Mobil* and this case. Appellant has conceded, as found as facts by the Tax Appeals Commission as the trial tribunal, that each of its separate functional operations may be unitary in nature, but has introduced conclusive and unchallenged proof that its total corporate operations are not unitary as a whole (App. Br. pp. 7-9). The Wisconsin Supreme Court, ignoring this evidence. simply concluded that Appellant was unitary *per se* as a matter of law and hence it followed, *per se,* that Wisconsin could include virtually all of Appellant's income in the tax base, a conclusion which Appellant has strenuously opposed before this Court. (See more below on the concept of "unitary".)

5. It is abundantly clear that this Court in *Mobil* has in no way modified, much less overruled, its previous decisions relied on by Appellant which held that, to grant constitutional validity to state income taxes, the "requisite nexus" must be established and the tax cannot be "out of all appropriate proportion to the business" transacted in the taxing state (48 LW 4309). This Court emphasizes, however, that Mobil failed with respect to these issues to fulfill its burden of proof on three counts. First, even

though its only operational function in Vermont was that of marketing, Mobil permitted the inclusion of all of its operating income in the tax base without protest. Second, Mobil made no attempt to prove that the tax was out of all proportion to the business it transacted in Vermont. And third, Mobil asserted that there was no nexus with respect to dividend income, simply because it was dividend income received at a commercial domicile in New York and without any proof of lack of nexus between Vermont and the earnings from which such dividends were paid. Thus, Mobil permitted the apportionment of all of its operating income without challenge to nexus and yet challenged the inclusion of dividend income only because it was dividend income without proof of, or challenge to, the absence of the required constitutional nexus. As noted above, there is no dividend issue in this case, but, in terms of operational income, it should be indisputably clear from the record that Appellant, unlike Mobil, has fulfilled its burden of proof (a) that the only Wisconsin nexus is with Appellant's marketing function, which does not thereby entitle Wisconsin to reach for more than its proportionate tax on income from that function alone, and (b) that, by any conceivable measurement, the Wisconsin tax predicated on substantially all of Appellant's functional operations income was out of all appropriate proportion to the marketing business conducted by Appellant in Wisconsin thus bearing no fair relationship to the services provided by the State (App. Br. pp. 17-30).

6. As observed in paragraph 5 above, this Court in *Mobil* has not deviated from its prior decisions relied on by Appellant here as regards the "nexus" and "appropriate proportion" issues, to which should be added that, likewise, this Court in *Mobil* has not deviated from its prior decisions relied on by Appellant as regards the rela-

tionship between the unitary concept and the right of a state to invoke total apportionment (48 LW 4309-4310). The Due Process Clause requirement of a rational relationship between the activity being taxed and the taxing state thus remains as a fundamental principle. While alluding to various factual tests without indicating which test is specifically determinative for the conclusion of unitary, this Court did make it clear once more in *Mobil* that "the linchpin of apportionability in the field of state income taxation is the unitary business principle," *but* that this did not automatically authorize total apportionment if the taxpayer could fulfill the burden of proving that some portion of its income "was earned in the course of activities unrelated to the sale of petroleum products in that State." Appellant in this case clearly noted that unitary was a condition precedent (the "linchpin") to total apportionment and acknowledged that, whether or not it was deemed to be unitary, in order to attack the application of the Wisconsin apportionment formula it had the burden of identifying and isolating income unrelated to its marketing operations in Wisconsin (App. Br. pp. 25-28). It is not clear from *Mobil* whether or not the appellant there recognized these well established principles, but, nevertheless, the responses to them as between Mobil and Appellant stand in stark contrast:

A. The *Mobil* decison was predicated on the proposition that Mobil conceded it was unitary, whereas Appellant established the fact, as found at the trial tribunal level, that, at the very most, only each of its functional operations was unitary.

B. In terms of burden of proof, Mobil endeavored to support unconstitutionality on the grounds (1) that dividends, as such and without more, automatically provided exemption, (2) that receipt of dividends was

a separate taxable event which presumably isolated those dividends from apportionment, and (3) that the management of this dividend income was to be regarded as a separate enterprise free from apportionment. Nothing remotely resembling this theoretical mode of "burden of proof" has been advanced here by Appellant, and it relies on no artificial concept such as commercial domicile.

C. This Court in *Mobil* treated Mobil's "proof" as being akin to *geographical* accounting and rejected it as being insufficient to fulfill the burden of proof as it had done in previous cases. Here, however, Appellant has employed *separate functional accounting* proof with respect to its situs production income from natural resources (a new issue before this Court), its refining income and its marketing income. The integrity of this proof was upheld by the trial tribunal and has never been challenged or appealed from by Appellee (App. Br. pp. 25-26).

In short, even if, *arguendo,* Appellant be deemed to be unitary as a corporate whole, it has fulfilled its permitted burden of proving that which is non-Wisconsin income, whereas Mobil failed completely in this regard.

7. All the foregoing comments are directed at the Due Process Clause issues in the *Mobil* case. Mobil also claimed a violation of the Commerce Clause based on the risk of multiple taxation. But here again, there are pronounced and readily discernible differences between the *Mobil* case and this case:

A. As with the Due Process issue, this Court in *Mobil* faced the Commerce Clause issue with the threshold observations that Mobil had conceded unitary and

had failed to prove lack of nexus or disproportionate taxation. Quite the contrary is true here (see above).

B. Because it was dealing with intangibles in *Mobil,* this Court refused to be drawn into the hypothetical situs problem of those intangibles as a means of determining the risk of multiple taxation. Here, the issue of multiple taxation involves income from the operation of tangible oil and gas wells, all having a geographical situs outside Wisconsin, and as to which no hypothesis is needed to establish the location and nontransitory nature of their situs (App. Br. p. 32).

C. While agreeing "that the constitutionality of a Vermont tax should not depend on the vagaries of New York tax policy" (48 LW 4311), this Court noted the lack of proof as to where the intangible income could properly be taxed, refusing to accept a "fictionalized situs" for the income in New York. Thus, this Court found that the risk of multiple taxation had not been established, but expressly did *not* abandon risk as the proper test for invoking the multiple taxation doctrine. In contrast to *Mobil,* the present record conclusively shows the risk by geographically locating and accurately measuring the tangible production income in the states of its situs origin.

D. Finally, as contrasted to the hypothetical problem inherent in the *Mobil* case, the line of cases cited by Appellant (App. Br. p. 45) makes crystal clear that these production situs states, not only have the power to tax oil and gas production income, but have, in fact, exercised that power. It follows irrevocably, therefore, that in this case the application of the Wisconsin apportionment formula to that production situs income does constitute multiple taxation as a violation of the Commerce Clause.

CONCLUSION

There can be no escape from the fact that this Court in *Mobil* has in no way deviated from the prescriptions regarding the relationship between state income tax apportionment and the Due Process and Commerce Clauses as set forth in: *Hans Rees' Sons* v. *North Carolina ex rel, Maxwell,* 283 U.S. 123 (1931); *Bass, Ratcliff & Gretton, Ltd.* v. *State Tax Commission,* 266 U.S. 271 (1924); *Butler Bros.* v. *McColgan,* 315 U.S. 501 (1942); *Moorman Mfg. Co.* v. *Bair,* 437 U.S. 267 (1978). Nor can there be any escape from the conclusion that Appellant here has met the standards imposed by all these cases in its assertion of the unconstitutional application of the Wisconsin apportionment formula, and if, in the light of *Mobil* as the latest in this series of decisions, Appellant's record here does not establish unconstitutional taxation then such proof is judicially impossible.

Respectfully submitted,

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Part 2

Ford Is Knocked Out Again; Yankees Trail by 10 Games

Streaking White Sox Rout A's, Boost Lead

Bo Belinsky Finally Wins

Heft Quits Mets

New York, N. Y.

Mets Batting

Rodgers' Single Wins for Angels

Los Angeles, Calif.

Koufax Starts Rally That Downs Astros

Houston, Tex.

Tires

From page 18, column 6

Braves

From page 18, column 6

2 Day Carp Shoot at Muskego Lake

Trapshooting

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Minor Leagues

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Now Foyt has won the coveted No. 1 starting position for the upcoming Indy 500, turning in the fastest official time ever recorded in the time trials — again with a tiger in the tank of his Sheraton-Thompson Special! Jimmy Clark of Scotland, also with a tiger in the tank of his Lotus-Ford, also broke the previous record to take the No. 2 spot.

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Draft Tests to Be Tough for Cheaters

Washington, D. C. — Students who will start taking the selective service system's college qualification test next week for 2-S deferments will be under tight security to prevent others from taking their places.

Security is so strict that Science Research Associates, Chicago, which will administer the examination under a million dollar contract from selective service, is sifting wastebaskets in its printing rooms to prevent test papers from being smuggled out.

The test will be given four times—May 11, May 21, June 3 and in late June.

Each of the 900,000 students who are expected to take the test first will be fingerprinted. The test administrators want to be sure that no one takes the test more than once and that students lacking confidence do not have substitutes take the test for them.

So far, 870,000 registrants, or fewer than half of the 1,864,203 students who held 2-S deferments at the beginning of February, have applied for the first three tests.

An official of the testing firm said that none of the four tests would contain the same questions.

"We put them together from a pool of pretested questions," he said, "but only about four or five of our 1,200 employes have seen the assembled tests."

When exam time comes, he said, the sealed tests will be sent by registered mail to the 1,200 test centers in colleges around the country.

Stretchers Take 4 Whales Back to Deep Water

St. Augustine, Fla.—AP—Four pilot whales were saved Wednesday by a stretcher team which rushed to the seashore and hoisted them from shallow water where they had beached themselves.

Dr. Richard R. Lindy said the whales had a built-in sonar system that functioned only in deep water. Lindy said the sonar stopped functioning when a whale entered shallow water. Whales then act as if they are about to die and beach themselves—as if to commit suicide, he said.

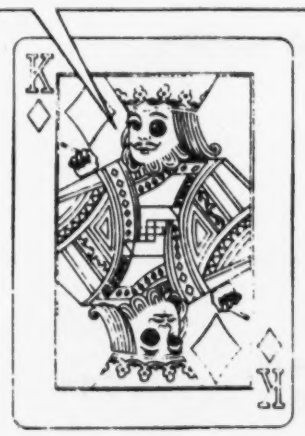
The whales — 1,000 pounds each and 8 to 10 feet long—were placed on stretchers, hoisted by hand onto trucks and taken to Marineland, six miles south of Crescent beach.

Lindy, head of neurosurgery at Albany (N. Y.) medical college, is doing research with medical students at Marineland.

—AP Wirephoto

Scottie De Turk, 2, inspected the heroism medal that Billy Haelle, 9, of Clifton Heights, Pa., received from the Boy Scouts. Billy, a Cub Scout, was honored for rescuing Scottie when he fell into a water filled pit last summer.

Us Tareyton smokers would rather fight than switch!



Join the Unswitchables. Get the filter cigarette with the taste worth fighting for.

Tareyton has a white outer tip ... and an inner section of charcoal. Together, they actually improve the flavor of Tareyton's fine tobaccos.

Monroe's Appeal Lowers Wages

Monroe, Wis. — Contractors for public buildings in Green county will have to pay only $2 an hour for general labor instead of $3.51, as a result of an agreement city and school officials reached Wednesday with the state industrial commission.

The industrial commission, which must by law set a wage schedule for public structures costing more than $5,000, had set the $3.51 hourly scale.

Mayor Walter R. Ekum and School Supt. Derwin J. Huenink argued at the meeting in Madison that the prevailing wage in Green county was only $1.50 an hour.

The officials said they regarded the $2 rate as a favorable compromise which could substantially reduce construction costs of a $400,000 municipal parking ramp and a proposed $856,000 grade school.

Future Astronauts May Need Germ Pills

Los Angeles, Calif. — Astronauts may have to eat bacteria rather than antibiotics to prevent dangerous infections that could plague them on long space journeys, says a medical authority.

If they don't, a possible consequence could be bacterial illness on the voyages or lethal "microbic shock" when they returned to the bacteria ridden earth after months of isolation, according to Dr. T. D. Luckey of the University of Missouri medical school.

It is conceivable that a wife's welcoming kiss could expose the astronaut to so many bacteria to which his body has lost immunity that it would literally be a kiss of death, Dr. Luckey said.

Tried on Guinea Pigs

He discussed the potential hazards of being isolated from bacteria for long periods during a symposium at the convention of the American Society for Microbiology.

The scientist said he based his speculations on studies with rats and guinea pigs that had been rid of all microbic life except possibly one species of yeast, one of mold and one of bacteria.

Bacteria that are harmless under normal circumstances when they are kept in balance by all other microbes can kill germ free animals within a week, Dr. Luckey said.

He said there was good reason to believe that the astronaut's sterile air, water and food would eventually, over several months' time, greatly reduce the varieties of bacteria present in his intestinal tract and on his skin.

Instead of carrying 200 to 500 species of microorganisms he might be reduced to several species.

No Sweat in Capsule

If the astronaut became ill as a consequence of the upset of the normal balance of intestinal bacteria, it might be better to take bacteria pills than antibiotics because the drug would only disrupt bacterial life more, Dr. Luckey said.

Another panelist, Dr. [illegible] Gall of International Business Machines in Bethesda, Md., reported a bit of good news. She said that studies of men in simulated space conditions who were not allowed to wash or change clothes for as long as six weeks showed an increase in the bacterial count on the skin, but there were no harmful effects seen—and surprisingly, no body odor.

Dr. Gall said this might be due to the nature of the specific

Women Endorse Liquor in Dorms

Houston, Tex. [illegible]

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Don't wait . . . this is a limited-time offer. Foreign Language Tiger Glasses are available exclusively at participating Enco dealers in this area. Drive in for your Tiger Glasses today. And while you're there, try a tankful of new High-energy Enco Extra gasoline . . . Put a Tiger in Your Tank! *Happy Motoring!*

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n, Tex. - AP -
ed off a pass
Tens midway through
quarter and raced
score and give the
Oilers a 10-6 victory
Denver Broncos in
rican Football league
Sunday.
un ran kicked field
18 and 31 yards for
but missed from 48
twice from 41 yards
team could generate
offense.

Clark Easy Winner in US Grand Prix

Watkins Glen, N. Y.

[illegible] place points will be available in the season finale, the grand prix of Mexico, Oct. 22.

Clark needed 40 laps of the 108 lap race to take the lead, then never relinquished it. He finished six seconds ahead of Lotus Ford teammate Graham Hill of England. Hill inherited second when the engine in Chris Amon's Ferrari failed on the 23rd lap. Only seven of the 18 starters finished.

Jo Siffert of Switzerland was fourth in Cooper Maserati, Jo Bonnier of Sweden was sixth in a Cooper Maserati, and Jean Pierre Beltoise of France was seventh in a Matra.

Dan Gurney, the only United States entrant, went out after 24 laps with suspension failure in his Eagle.

Foyt Nips Andretti, Boosts Point Lead

Sacramento, Calif. -AP- A. J. Foyt put more space between himself and Mario Andretti Sunday in their battle for the United States Auto club's national driving championship when he won the 100 mile dirt track race here.

Foyt nipped Andretti by six-tenths of a second, after having trailed from the second mile. He now has 3,040 points to 2,540 for second place Andretti. Foyt earned about $10,000 of the $30,000 purse.

The race on the mile track at the California State Fairground was run without a serious accident. George Snider finished third, ahead of Carl Williams and A. Unser.

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Senators Win, Bosman Victor

Chicago, Ill.

Foster, Regan Dodger Stars

Los Angeles, Calif. -

Clemente Wins, So Do Pirates

Pittsburgh, Pa. - Roberto Clemente won the fourth National league batting championship as the Pittsburgh Pirates defeated Houston here Sunday.

Clemente hit a home run and a triple to finish with a batting average of .357. I guess in the end it was Stan Musial and Willie Mays of Detroit for .301.

HOUSTON PITTSBURGH

Pinson and Reds Down Cubs, 10-3

Cincinnati, Ohio

Baltimore Wins but Finishes 6th

From Press Dispatches

Cleveland, Ohio – Marcelino Lopez and rookie Dave Leonhard held the Cleveland Indians to four hits here Sunday as the Baltimore Orioles won the season finale, 4-0, and finished in a tie for sixth place after winning the American league pennant last year.

BALTIMORE CLEVELAND

Yankees Down Kansas City, 4-3

From Press Dispatches

New York, N. Y. – The New York Yankees defeated Kansas City here Sunday, 4-3, on Joe Pepitone's two run homer in the eighth inning.

KANSAS CITY NEW YORK

McCormick Wins His 22nd, 2-1

From Press Dispatches

San Francisco, Calif. – Mike McCormick pitched five hit ball for his 22nd victory here Sunday as the San Francisco Giants beat the Philadelphia Phillies, 2-1, with a two run rally in the eighth inning.

PHILADELPHIA SAN FRANCISCO

Charles Wins Atlanta Open

From Press Dispatches

Atlanta, Ga. – Left handed Bob Charles, a former bank teller from Christchurch, New Zealand, shot a 70, two under par, Sunday to win the $115,000 Atlanta open golf tournament.

Charles finished with a 72 hole total of 282, two shots better than Tommy Bolt, Gardner Dickinson and Dick Crawford. Charles, rated the finest lefty in the game, picked up $22,000 for his victory and raised his 1967 winnings to $72,148, a record high for one year by any foreign golfer.

Charles, who won the British open and Houston classic in 1963 and the Tucson open in 1965, actually trailed Bolt by two strokes with 11 holes to play but two successive bogeys ended Bolt's hopes.

Cokes' Ring Title on Line Tonight

Oakland, Calif. –AP– Curtis Cokes will fight to eliminate any objection to his world welterweight boxing championship Monday night when he meets the Californian Charlie Shipes at the Oakland arena.

Cokes, of Dallas, Tex., won the World Boxing association crown by winning the tournament to determine a successor in the 147 pound division when Emile Griffith won the middleweight championship.

Because Shipes was bypassed in the tournament, the California athletic commission recognized him as world champion when he stopped Percy Manning of Philadelphia in the 10th round last December.

Despite the divided title claim, Cokes will collect more than three times the money Shipes will get. Shipes will get $11,000; Cokes a $42,500 guarantee. Henry Winston, promoting his first boxing match, figures a gate of $76,000 will be needed for him to break even.

Television plans were wiped out because of a strike against the American Broadcasting Co.

How They Fared

1. Notre Dame, 14, lost to Purdue, 28-21
2. Southern California, 20, beat Michigan State, 21-17
3. Houston, 34, beat Wake Forest 30-6
4. UCLA, 34, beat Washington State, 31-23
5. Georgia, 28, beat Clemson, 24-17
6. Colorado, 24, 6-6 and play
7. Nebraska, 28, beat Minnesota, 7-0
8. Texas, 0-2, lost to Texas Tech 19-17
9. Alabama, 14-1, beat Southern Mississippi, 28-3
10. Purdue, 28, beat Notre Dame 28-21

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Bowman Blasts Children's Code Changes

Madison, Wis. — [illegible] George Bowman of the Milwaukee county children's court Wednesday denounced proposed changes in the state's juvenile court law as "patently unworkable."

Bowman said the changes would increase the workloads [illegible] court and in the county sheriff's department.

Bowman cited Warren H. Evans, an assistant district attorney assigned to handle juvenile cases, who spoke against the proposed court system's code revision in one of the legislature's committee subcommittee. The committee is studying possible changes in the code to recommend to the 1969 legislature.

Eight other persons who attended the hearing favored the revisions, although some suggested changes.

[illegible] to a proposal to divide [illegible] delinquency hearings into two parts.

In the first part, the judge would hear only evidence pertaining to the act for which the youth was brought to court and would determine whether he committed it.

Both Parents Notified

In the second part, in which the judge would determine disposition of the case, he could consider background information about the child — home situation and prior record, for example. It would not be permitted at the first stage.

The two part hearing would create an impossible work load, Bowman claimed.

He and Evans also opposed a provision requiring that both parents of an accused delinquent, not just one, be served [illegible] court hearing. The requirement would place an undue burden on the sheriff's department, which serves the notices, they said.

State Sen. Norman Sussman (D-Milwaukee) said that juvenile court rules for Milwaukee county should be different from those of the rest of the state, to take into account Milwaukee's high case load.

Other speakers called the proposed revisions a step in the right direction.

County Judge James W. Byers, Green Bay, said the divided hearing need not cause delays. A judge could go immediately from the first part of the proceeding to the second, he said.

"The only change is that a judge can't look into the social history of the child before making a finding," Byers said.

Notification of both parents [illegible] "Except that [illegible] concern not for judges or for the staff shouldn't be the deciding factor," he said.

Other Support Given

Waukesha county Judge Harold J. Wollenzien said the two part hearing would be acceptable, but he agreed with Bowman that serving notice on both parents would be difficult.

Wisconsin Honors Slave Who Became Lawman

Portage, Wis. (UPI)— Thursday was Ansel Clark day in the state of Wisconsin.

Clark, a Negro who died Aug. 18, 1932, rose from slavery to become one of the city's most beloved and respected citizens.

During his more than 70 years in Portage, Clark served as deputy sheriff of Columbia county, town constable and county humane officer. He also was a member of the volunteer fire department and a member of the Wisconsin national guard.

In a proclamation, Gov. Knowles said, in part: "It is the policy of the state of Wisconsin that all our citizens shall have equal opportunities regardless of race, color, religion, national origin or ancestry in accord with our long held principle of liberty and justice for all."

Clark served on both sides of the Mason-Dixon line during the civil war. He was pressed into service as a laborer for the confederate army when war broke out. A few days later, he was captured by the union forces. After breaking out of prison and returning home, Clark joined the union forces.

After the battle at Vicksburg, Clark found his way here in 1867.

Clark was employed by the pioneer Wisconsin jurist, Judge John Clark, as a coachman and later by W. W. Corning, a leading merchant. It was in Corning's family plot that Ansel Clark's body was interred.

Picture on Picture Page

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